



Appeal Decision

Site visit made on 21 March 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/A2335/W/22/3312193

49 Low Mill, Mill Lane, Caton, Lancaster LA2 9HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nick Hewitt against the decision of Lancaster City Council.
 - The application Ref 22/00494/FUL, dated 14 April 2022, was refused by notice dated 13 October 2022.
 - The development proposed is the erection of a dwelling house (C3) and erection of detached garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the Forest of Bowland Area of Outstanding Natural Beauty (AONB)
 - the living conditions of neighbouring residents with particular regard to overlooking and loss of privacy
 - protected trees.

Reasons

Protected landscape

3. The site lies within a countryside area within the Forest of Bowland AONB. In the locality the landscape is dominated by the River Lune and its floodplain, and the predominantly open rural landscape rising beyond.
4. Section 85 of The Countryside and Rights of Way Act 2000 requires me to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. Paragraph 176 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing the scenic beauty of Areas of Outstanding Natural Beauty, which have the highest level of protection in relation to these issues. The Framework is clear that the scale and extent of development within these areas should be limited.
5. 49 Low Mill is an extended detached bungalow set within a large plot alongside various garage buildings. The dwelling is situated on a terrace formed within the inclined site rising to the south. The proposed single storey dwelling would be located along the rear garden boundary in an elevated position above the

existing dwelling. According to the Council, the building would be some 20m to the south of No49 but on ground about 4.5m higher.

6. In the main viewpoints to the site, which lie on the public rights of way along and beyond the river corridor to the northwest, the existing development on and about the site is substantially set behind an embankment to the primary flood plain edge. It benefits from screening by trees and vegetation that, even when not in leaf, provide effective filtering of views to the built development.
7. Although elements of the wider cluster of buildings – notably the upper parts of the mill and mill tower are more visible, existing tree screening is effective in containing views to the built development in this part of Caton. This protects the overriding rural character of views from within and about the river corridor.
8. The overall height of the proposed garage and position behind the embankment alongside the lower flood plain would mean only its roof would be visible from viewpoints along the riverside paths to the north. This would be consistent with the level of visibility associated with the existing dwelling and garages.
9. The bespoke linear form of the dwelling would not be typical of any of the varied house designs in the vicinity. Nevertheless, it would reflect the low profile of some nearby buildings and incorporate traditional materials to reference the local palette of external finishes. However, the raised position of the proposed dwelling would sit above the roofscapes of the lower buildings. In conjunction with the contrasting appearance and length of the façade, this would cause it to be visually prominent. It would draw the eye and be clearly visible from the well-used area of the AONB to the north.
10. The siting of the dwelling would remove established vegetation along the southern boundary of the site. The garage would require removal of a modest evergreen in the foreground. These currently contribute to the verdant character provided by consecutive trees and bushes along this part of the floodplain edge.
11. Moreover, the dwelling would be positioned in front of hedging and tree planting proposed on, or close to, the common boundary with an adjacent development site to the south. This would significantly diminish the effectiveness of that landscaping in providing continuity to the level of characteristic visual softening of built development close to the more open area of the river corridor.
12. Notwithstanding the use of natural slate and greying of the proposed cedar cladding (if allowed to naturally age), a similar degree of screen planting would be necessary to assimilate the building and preserve the integrity of a green fringe at the interface between built development and the open countryside.
13. As an application for full planning permission, there is little detailing of proposed landscaping other than the locations of hard surfacing and retaining structures across the lower garden area. Given the slope of the site, the limited area that would remain to the north of the building, the necessity for the retaining structures to provide access, and the largely singular orientation of the main outlook with attendant pressure to maximise the benefits of the view, I have significant doubt that sufficient long-term screening to provide the characteristic assimilation of built development could be achieved.

14. In the circumstances and on the basis of the evidence before me, I find the imposition of a planning condition requiring the necessary degree of screening and compensatory planting would be unlikely to pass the test of reasonableness. This is because it could nullify the benefit of a permission it might be attached to.
15. For the above reasons, I find that the proposal would stand out as an obtrusive feature on the river valley side. It would conflict with Policies EN2 and EN3 of the Local Plan for Lancaster District 2011-2031 Part One: Strategic Policies and Land Allocations DPD [2020], Policies DM29 and DM46 of the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD [2020] (the LP2), and the Framework as they require development to contribute to and enhance the character and visual amenity of the Area of Outstanding Natural Beauty and the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

Living conditions

16. Some windows in the rear elevation of No49 serve habitable rooms, including the sitting room, kitchen and a bedroom. However, the outlook from these windows is largely restricted by the height and close proximity of a stone retaining wall at the rear of the terrace and the initial banking of the lower section of the elevated garden.
17. The profile of the land, as demonstrated in a section provided by the appellant, would substantially interrupt direct views between the facing habitable room windows of the existing and proposed dwellings. Nevertheless, some restricted views would be available between windows at the eastern end of the proposed dwelling and the existing sitting room. Moreover, views into that room would be available from the planned garden and accesses linking the dwelling to the proposed garage.
18. However, on the more spacious area east of the proposed pathways, I am satisfied that a modest screen could be provided in a manner that would integrate with the verdant character of the locality and protect the quality of the restricted outlook from No49. In accordance with the approach advocated in Paragraph 55 of the Framework, this could be secured by condition.
19. I note the concerns of the potential effects of the proposal on gardens under development to the south of the building. As openings in the southern elevation would be restricted to high-level windows, these would offer only limited outlook and substantially prevent overlooking of the adjacent gardens in normal use.
20. Furthermore, given the height of the proposed building, that its roof would pitch away from the boundary and, according to the objector, landscaping is required to be installed along the common boundary, I find the effects of the single-storey building on users of the garden areas would be limited. Any loss of views across third-party land is rarely a matter of weight in the consideration of planning proposals.
21. For the above reasons and subject to a privacy boundary, I find that the effects of the proposals on the living conditions of existing and prospective occupiers of neighbouring properties would be acceptable. It would meet the

requirements of Policy DM29 of the LP2 as it seeks to ensure that development causes no significant detrimental impact to amenity in relation to privacy and overlooking. For similar reasons, it would comply with the Framework.

Trees

22. The site benefits from a number of mature trees which are protected under Tree Preservation Order No85/1982. Whilst an arboricultural assessment of the proposals identifies that the dwelling could be located beyond the root protection areas (RPAs) of the relevant trees, there is little information to demonstrate the locations of drainage services that would be required in association with the development.
23. The scheme proposes to connect to existing drainage systems serving No49. Although the routing is not demonstrated, the appellant asserts that these could be provided below the proposed access paths. As there is sufficient space to accommodate drainage infrastructure outside of the RPAs, I find this is a matter also capable of being secured through planning condition. This and the protection of the mature trees on the site during construction would ensure compliance with Policy DM45 of the LP2 and the Framework as they support the protection of trees that positively contribute to the visual amenity, landscape character and/or environmental value of locations.

Other Matters

24. I acknowledge that the building would be located where it is accessible to local services and facilities by sustainable/healthy transport means. It could be constructed in an environmentally friendly manner to provide high living standards and limit energy consumption during its use. However, as requirements of the development plan, these are not benefits in favour of the proposal.
25. According to the appellant, the Council is currently unable to demonstrate a 5-year housing land supply. Whilst this would normally trigger the presumption in favour of sustainable development, as set out in Paragraph 11 of the Framework, this is disengaged by Footnote 7 which excludes development in AONBs. Nevertheless, the proposal would contribute to local housing supply and make efficient use of the site. It could be used by a family currently residing in the area. These would be benefits arising from the proposal.
26. The site lies close to Low Mill, a Grade II Listed Building. There is no dispute between the main parties that the development would not affect the Listed Building or its setting. Pursuant to the duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site I concur with that view. This is because of the intervening distance, trees and later phases of building between the site and the heritage asset.
27. The landscaping requirements associated with a development of 9 houses to the south of the site would be required within that site's confines. The level of overshadowing from development to its north would be limited. Accordingly, whilst I have found the dwelling would adversely affect that landscaping's purpose, I do not consider the proposal would materially affect its delivery.

28. There is little evidence before me to support a claim that part of the land within the appeal site is owned by a third party. In any event, if this were shown to be the case, it is only a matter for the relevant parties.

Conclusion

29. I have found that the proposal would fail to preserve the landscape and scenic beauty of the Forest of Bowland Area of Outstanding Natural Beauty. Whilst the proposals would provide a small contribution to local housing delivery and make more efficient use of the site, the benefits therein would not outweigh the identified harm. Consequently, I conclude that the proposal conflicts with the development plan taken as a whole, and the appeal should be dismissed.

R Hitchcock

INSPECTOR